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HOCKEY CANADA STATEMENT TO STAKEHOLDERS

Over the last few months, Hockey Canada has been answering questions from Canadians and our partners about how we will ensure the safety, welfare and wellbeing of everyone participating in and enjoying the game of hockey in Canada. We have recently released an Action Plan to address systemic issues in hockey and ensure greater safety and inclusiveness in and around Canada's game. We know we have an opportunity to do more to address behaviours that undermine the many good things the game brings to our country. With our Action Plan, we are aiming to do just that. We encourage everyone to read this plan and we welcome any feedback you may have.

In addition to outlining what Hockey Canada will do as we move forward, we have also answered questions Canadians have about two disturbing allegations - at the Hockey Canada Foundation's London Gala in June 2018 and during the IIHF World Junior Championship in Halifax in 2003 - and how we respond to claims of sexual misconduct. We understand why Canadians want answers about the allegations of sexual assault relating to 2018 and 2003, and they want to see appropriate consequences for any criminal behaviour or wrongdoing. Hockey Canada shares that desire and is taking every step within our power to support the ongoing investigations into the allegations by local police and independent investigators.

Given the importance of these issues, we know Hockey Canada's Members want us to explain to them directly how we are handling them. To be transparent, we want to explain our approach to sexual misconduct issues, how we have dealt with these two allegations in particular, and our commitment to continued improvement going forward.

Hockey Canada's Approach to Sexual Misconduct

To be clear, even one instance of sexual misconduct within our sport is too many. There is no place for abuse or maltreatment of or by the people who participate in hockey at any level. Hockey Canada wants people to feel empowered and safe when they speak up if they witness or experience unacceptable behaviour such as racism, bullying, sexual abuse or assault, or other forms of maltreatment.

When Hockey Canada does learn of allegations of sexual misconduct, we take a series of steps that are intended to provide support to the victim, ensure there are thorough, independent investigations to identify wrongdoing, and put in place an external panel who can determine the appropriate sanction for any breach of our code of conduct.

Hockey Canada will soon become a full signatory to the Sport Canada Office of the Sport Integrity Commissioner (OSIC), which will oversee all complaints, allegations and/or concerns with national programming. Hockey Canada will coordinate its efforts to investigate and sanction sexual misconduct with OSIC to ensure that any alleged incidents of sexual misconduct are fully investigated and addressed.

Hockey Canada's National Equity Fund

Given some of the misconceptions regarding the National Equity Fund, we want to share with you the history of the Fund and how it has been used.

The National Equity Fund is a segregated account used for purposes relating to insurance and risk management. It is not a “slush fund” - it is a means for Hockey Canada to support anyone who might have been injured or harmed where insurance policies were insufficient. This has been considered a best financial practice for sport organizations. As Barry Lorenzetti, President and CEO of BFL Canada, Hockey Canada’s insurance broker, recently explained to the Standing Committee on Canadian Heritage on July 27, it is common practice and prudent risk management for a sports organization to maintain a reserve fund of this type.

The Fund was first established in 1986, when Hockey Canada self-insured and did not purchase insurance policies to protect against potential liabilities. In the mid-1990s, Hockey Canada began purchasing insurance, but insurance does not cover all potential liabilities. It was in this context, and out of an interest in ensuring that Hockey Canada had the ability to fund uninsured claims that fall outside our available insurance coverage, that the Fund was designated as the account used for settlements of uninsured claims.

Today, the Fund is predominantly used to pay premiums and deductibles for commercial general liability and directors’ and officers’ liability policies and to support safety, wellness, and equity initiatives (including concussion research, criminal record checks for volunteers and employees, and donations to wellness organizations). Approximately 95% of payments from the Fund since 1995 have been for these purposes.

Uninsured claims include, in some cases, claims relating to sexual misconduct, but these were only a small portion of payments from the Fund. From 1995 (when Hockey Canada first purchased insurance policies) through 2021, the percentage of payments from the Fund to resolve alleged sexual misconduct claims was less than 4% of the total.

The National Equity Fund is funded through a designated insurance fee of \$13.65 charged to Hockey Canada participants, as well as the returns on investment of those funds. Those fees and the investment returns are collected and held separately from other fees and revenues to ensure that the funds are only used for their designated purposes.

The Fund is externally audited annually and is clearly identified in the organization’s annual financial statements. Hockey Canada never kept its use of the Fund to pay uninsured claims secret. However, in light of the public’s concern about use of membership insurance fees to settle uninsured sexual misconduct claims, these payments have been put on hold pending an independent governance review that will determine, among other things, whether this use of the Fund continues to be appropriate for a sport organization like Hockey Canada.

Hockey Canada’s Response to the June 2018 Allegations

We recognize that Canadians have questions about how Hockey Canada responded to allegations of sexual misconduct in June 2018. Hockey Canada took the following steps after learning of the allegations through a telephone call from the young woman’s step-father at around 9:30 am¹ on the morning of June 19, 2018:

- (a) Within an hour, Hockey Canada’s Director of Human Resources called the step-father to ask him for details. At the time, it was unclear whether the young woman intended to make a complaint to the police.
- (b) Hockey Canada convened its senior leadership team around 1:00 pm, shortly after CEO Tom Renney and COO Scott Smith landed in Calgary. Hockey Canada wanted advice about responding to a situation where a family member alleges

¹ All times in this section are provided in Mountain Time.

- sexual misconduct occurred, but the alleged victim does not wish to go to the police.
- (c) Around 2:00 pm, Hockey Canada determined that it would speak to the London Police Service, but wanted to speak to the young woman's family first.
 - (d) Around 3:00 pm, Hockey Canada spoke to the young woman's mother, who told them that she spoke to the police. The police told the young woman's mother there was nothing they could do if the young woman did not come forward. Hockey Canada discussed this information internally and confirmed it would still report the incident to the police.
 - (e) Around 5:00 pm, Hockey Canada called the London Police Service to report the allegations. Approximately 90 minutes later, a detective at the London Police Service called Hockey Canada back to advise that they had spoken with the young woman and that she did not wish to participate in a police investigation.²

On June 26, Hockey Canada informed Sport Canada about the allegations and the actions we were taking. The Sport Canada representative specifically told Hockey Canada to provide only general details of the allegations and not to provide specific details of the incident. Sport Canada also praised the diligence of Hockey Canada's response.

Hockey Canada's Investigation into the June 2018 Incident

On June 19, 2018, Hockey Canada retained Danielle Robitaille of Henein Hutchison LLP, one of Canada's leading law firms in criminal law and internal investigations, to conduct an independent investigation. As Ms. Robitaille told the Heritage Committee, Henein Hutchison alone decided the steps to take over the course of her investigation.

Henein Hutchison acted quickly. On June 25, they reached out to the young woman's mother to offer the young woman an opportunity to make a witness statement. The mother told the investigators that the young woman needed some time to consider her options. Henein Hutchison followed up on June 28 and July 6.

On June 26, 2018, Henein Hutchison wrote to all 19 players who attended the London Gala and began in-person interviews of the players four days later. The investigators interviewed 10 players by early July, but the young woman and 9 players chose not to participate because of the ongoing police investigation. Henein Hutchison determined that it could not continue interviewing any of the remaining players without the young woman's participation.

We do not know the details of the London Police Service's investigation, but we understand that any players who were asked to participate in that investigation did so, and that the police also had the opportunity to speak with the young woman. Ultimately, the London Police concluded its investigation in February 2019 without laying charges on any players.³

Between February 2019 and April 2020, Henein Hutchison repeatedly asked the young woman's lawyer whether she would participate in its investigation. She ultimately declined to do so, as is her right. As Ms. Robitaille told the Heritage Committee, she concluded in September 2020 that it would not be appropriate or in line with best investigatory practices to continue with the investigation without a statement from the young woman. That is because, without the young woman's participation, any factual conclusions arising from the investigation would have been unreliable and even potentially misleading.

Henein Hutchison therefore recommended to Hockey Canada in September 2020 that its investigation be terminated, without limiting its ability to restart the investigation in the

² The young woman subsequently reconsidered, and participated in the investigation.

³ As has been reported, the London Police Service recently re-opened its investigation.

future if circumstances were to change. Hockey Canada accepted this advice and instructed Henein Hutchison to close its investigation.

At the Heritage Committee hearing on June 20, 2022, Scott Smith made clear that if the young woman wanted to participate in the investigation, then Hockey Canada would reopen the investigation. This led to discussions between Hockey Canada's lawyer and the young woman's lawyer about whether and how the young woman might participate in a reopened investigation. After some time to reflect, on July 9, the young woman agreed to participate in the investigation in a way that worked for the investigator, and Hockey Canada instructed Henein Hutchison to re-open the investigation, which is underway.

Hockey Canada has since confirmed publicly that it will impose sanctions, up to and including a bar on further participation in any Hockey Canada programs, on any player who refuses to participate in Henein Hutchison's investigation.

Henein Hutchison will deliver its completed investigation report to an independent panel of three adjudicators, who will determine the appropriate sanction for any confirmed breaches of Hockey Canada's code of conduct, up to and including a lifetime ban from participation in any Hockey Canada activities.

Response to the Statement of Claim in May 2022

On April 20, 2022, the young woman issued a statement of claim in the Superior Court of Justice in London, Ontario. The pleading includes allegations of serious and abhorrent misconduct against Hockey Canada and eight unnamed players based on the events of June 18-19, 2018. Hockey Canada was never made aware of these specific allegations until early May 2022.

A statement of claim is a public document that resides in a court file. From the moment it is issued, it can be viewed by the public. It would be impossible to "cover up" the claim or its contents, and Hockey Canada never tried to do so.

A unique feature of the claim is that it sought a "sealing order" to protect both the plaintiff's identity and the identities of the eight John Doe defendants. It is highly unusual for a plaintiff to seek to protect the identity of unrelated defendants. As her lawyer recently confirmed to the CBC, the young woman did not want the players' identities made public.

The allegations in the claim have been heavily discussed in the press and on social media. Hockey Canada has tried to make clear that the claim's allegations concerning its response to the incident are simply inaccurate. Hockey Canada always takes reports of sexual assault seriously, encourages complaints to be brought forward, and acted swiftly to report and investigate the young woman's allegations.

After reviewing the claim and with the advice of professional advisors, Hockey Canada, who was the host and organizer of the event where the alleged incident occurred, decided that the most appropriate course of action was to engage in settlement discussions with the complainant. The Board authorized a maximum dollar limit that could be used in legal counsels' settlement negotiations, and it relied on Hockey Canada's advisors to then negotiate and document the settlement.

Hockey Canada has heard a lot of criticism from the public and members of the Heritage Committee for this decision. They asked why Hockey Canada would settle the claim if the allegations against it were unproven or false. This criticism fails to consider the alternative to a prompt settlement. Hockey Canada could have defended the claim and forced the young woman to pursue a contested and protracted legal battle, but we did not think that was the appropriate response to her claim.

A lawsuit such as this would have involved intense public scrutiny of all allegations and behaviours, public testimony, cross-examination, and defence tactics which could include attacking the credibility and character of the young woman. It could also have led to her identity being known to the public against her wishes which is not something Hockey Canada wished to see.

We determined to pursue a mutually agreeable settlement with appropriate privacy provisions to protect the complainant's identity in accordance with her wishes. The young woman was represented by skilled counsel and agreed to the settlement willingly.

In this case, as in virtually every case, the terms of a proposed settlement were discussed between Hockey Canada's lawyer and the plaintiff's lawyer at a high level before pen was put to paper. It was understood and agreed to in advance that the settlement would include a full and final release of all parties, no admission of liability by any defendants, and confidentiality terms. These terms of settlement are a common feature of civil litigation, including sexual misconduct litigation, and were agreed to by both parties and their lawyers. As the young woman's lawyer recently confirmed to the CBC, the terms of settlement included confidentiality terms that the young woman requested and agreed to. Those terms ensured that she was able to say what she wanted to say publicly about the claim without engaging in an unwanted public spectacle.

One member of the Heritage Committee questioned why Hockey Canada settled the case "on behalf of" the players. This question reveals a misunderstanding of the litigation process. When one defendant wants to settle a case in its entirety, it is common to insist that the plaintiff release all of the defendants from further claims. That is what happened here. It is not a settlement on the other defendants' behalf, and the release of the players as part of the settlement was not a cover up. It was necessary to bring an end to the lawsuit. But it did not put an end to Hockey Canada's efforts to investigate the incident once it became clear that the young woman would participate in the investigation and that Henein Hutchison's independent investigation could be reopened.

Hockey Canada appreciates that some people feel that settling the case quickly and with confidentiality terms was contrary to the public interest. Hockey Canada's approach to the case was always intended to address the wishes and best interests of the young woman and Hockey Canada. Recently, Hockey Canada and the young woman agreed to amend the confidentiality terms of the settlement to allow her to publicly discuss the events of June 2018 should she choose to do so. As the young woman's lawyer acknowledged to the CBC, the amendments were initiated by Hockey Canada as a fair and appropriate response to efforts to undermine her credibility via anonymous media reports.

Hockey recently re-opened its investigation. Any players who refuse to cooperate with Henein Hutchison will be sanctioned.

Response to Allegations Surrounding the 2003 Canadian World Junior Team

Last month, disturbing allegations of sexual misconduct by members of the 2003 World Junior hockey team were brought to Hockey Canada's attention.

During the week of July 4, 2022, Hockey Canada heard a rumour that "something bad" happened at the 2003 World Junior Hockey Championship in Halifax. This rumour was not shared by an alleged victim. At the time, there was no reference to a video or details regarding the nature of the incident. Hockey Canada immediately reported what it had been told to Sport Canada and hired an independent, third-party investigator.

Hockey Canada's investigator was unable to learn anything further until the evening of July 21, when it received an email from Rick Westhead, a TSN reporter, regarding a video that allegedly depicts a group sexual assault by several Team Canada players on an unconscious woman. None of the information in Mr. Westhead's email was known to Hockey Canada before that evening.

Hockey Canada reported the information to the Halifax Regional Police via telephone that night. Hockey Canada understands that our call was the first report of this alleged criminal act to the police.

The next steps are now in the hands of the Halifax Regional Police. We have instructed our independent investigator to continue her work and to provide any support or information requested by police.

Conclusion

We know that trust in Hockey Canada has been eroded in the past few months, and we need to rebuild that trust. Canadians are disturbed by what they have read and heard in the media about the events of 2018 and 2003 and about the National Equity Fund. Unfortunately, media reports and politicians' comments do not always reflect full and accurate facts concerning these important issues, which is why we felt it was important to set out a full explanation in this letter.

Hockey Canada has heard Canadians. We are committed more than ever to fostering a safe and positive environment where people, particularly young people, can experience the enormous benefits of participating in our national sport, whether as a coach, player, official, parent volunteer or fan. We are committed to leading the organization through the changes necessary to restore Canadians' trust in Hockey Canada. The governance review and the implementation of our Action Plan will assist us with making positive changes for the organization and for the game of hockey. We look forward to making Hockey Canada stronger and better in the years to come.